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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Amendment to Part 27 of the )  
Commission's Rules To Revise Rules )  
for Services in the 2.3 GHz Band and )  
To Include Licensing of Services )  
In the 47 GHz Band )

WT Docket No. 98-136

TO: The Commission

**COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION**

The Satellite Industry Association ("SIA")<sup>1</sup>, on behalf of its members, hereby responds to the Commission's request for comments in the above-captioned proceeding.<sup>2</sup> In this proceeding, the Commission has recognized the satellite industry's interest in the use of the 47 GHz bands<sup>3</sup> and had stated that it intends to adopt a "flexible framework" to make such use of the bands possible.<sup>4</sup> The SIA strongly supports the Commission on this point, and urges the Commission to

<sup>1</sup> The Satellite Industry Association was created as a means of identifying and monitoring issues affecting the satellite communications industry as a whole, addressing national and international regulatory and public policy issues affecting the industry, and promoting the role of satellites and satellite technology in the development of national and international communications projects and policy initiatives. The SIA is an operating entity of the Satellite Broadcasting and Communications Association ("SCBA"). The executive members of the SIA are: American Mobile Satellite Corporation (AMSC), Boeing Commercial Space Company, COMSAT Corporation, Ellipso, Inc., GE American Communications, Inc., Globalstar LP, Hughes Communications, Inc., Iridium, LLC, Lockheed Martin Corporation, Loral Orion Network Systems, Inc., Loral Space & Communications, Motorola, Inc., Orbital Sciences Corporation, PanAmSat Corporation, Teledesic Corporation, TRW, Inc., Williams Vvxx Services.

<sup>2</sup> See Notice of proposed Rulemaking ("NPRM"), FCC 98-142, slip op. (released July 29, 1998).

<sup>3</sup> Several SIA member companies have filed applications with the Commission to utilize spectrum at 47.2 - 48.2 GHz for commercial satellite services.

<sup>4</sup> See NPRM at 23 (¶ 52).

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take whatever steps are necessary to permit U.S. satellite companies to utilize the spectrum at 47 GHz, as requested in numerous pending applications before the Commission.

As an initial matter, the SIA believes the Commission should recognize that the preferences expressed in the Radio Regulations and in WRC-97 Resolution 122 do not preclude fixed-satellite service ("FSS") use of the 47 GHz bands. There should therefore be no concern that satellite development of these bands will depart from international allocations. Use of these bands for FSS remains fully in accord with the international allocation tables. New Radio Regulation S5.552A does not govern relations between fixed service and FSS, except to the extent noted in Resolution 122. The presumption of that resolution is, nonetheless, that sharing between stratospheric and FSS stations is feasible. Moreover, the moratorium on processing FSS registrations at the ITU is, by its terms, temporary, and is likely to be modified at the next WRC.

Regarding the service rules proposed in the NPRM, the SIA urges the Commission to adopt only those rules that do not prejudice access to the 47 GHz bands by the U.S. satellite industry. To this end, the Commission's tentative conclusion that it will not impose a cap on the aggregation of spectrum within the subject band is the correct one. Such caps are not appropriate for satellite or other wide-area regional or global services, where access to large blocks of frequencies is essential and use of spectrum has traditionally been coordinated with other operators using the same frequencies.

The Commission is also correct to limit the application of foreign ownership restrictions to those required for common carrier providers under Section 310(b) of the Communications Act of 1934, as amended. It is prudent to adopt only existing statutory restrictions, to the extent such restrictions are consistent with the WTO obligations, as allowing flexible investment will help foster the development of new satellite services.

The SIA supports the wide-area licensing discussed in the NPRM as a means to enable satellite operators to secure access to the 47 GHz bands. Thus, the Commission should adopt a licensing scheme based on large geographic areas and the licensing of at least one 100 MHz pair of channels on a national basis. On the other hand, the Commission should not adopt its FSS “safe harbor” proposal, wherein a licensee must construct one earth station per licensed service area. The proposal is both superfluous (no company will construct, launch and operate a space segment system without also putting in place an earth station segment to service the space segment) and inconsistent with traditional industry practice (earth stations often are owned and operated by entities different from the space segment licensee).

In the NPRM, the Commission requests comments on public safety issues relating to stratospheric platforms. Here, the SIA cautions the Commission to remain skeptical of the concept of using lighter-than-air balloons to hold aloft large platforms. This concept remains so speculative, in fact, that the SIA urges the Commission to refrain from taking further action toward auctioning frequencies for stratospheric fixed service until the Federal Aviation Administration (FAA) rules that such aircraft are safe for autonomous flight over populated areas.

Finally, the Commission in the NPRM proposes to adopt general competitive bidding rules contained in Part 1, Subpart Q of the Commission’s rules.<sup>5</sup> The proposal does not comport with the Commission’s desire for flexibility with respect to the use of the 47 GHz bands. The inherent unsuitability of the competitive bidding process critically disfavors global satellite services, which, unlike domestic terrestrial services, do not have well-defined, local service areas that exist wholly within national borders. In addition, both the spectrum bandwidth of the channels proposed to be assigned, and their allotment based upon sub-national geographic areas is likely to be incompatible with many types of satellite services. The FCC itself has already recognized that the use of

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<sup>5</sup> 47 C.F.R. § 1.2101-1.2111 (1997).

competitive bidding to award licenses for satellite systems raises a, "significant number of extremely difficult issues" including the potential for sequential auctions.<sup>6</sup> SIA thus believes that the Commission should preserve access to the 47 GHz spectrum for FSS use and that such use should not be subject to auctions.

For the foregoing reasons, the SIA urges the Commission to make good on its stated intent to develop a flexible framework that permits use of the 47 GHz spectrum by satellite services, and, to this end, to adopt the recommendations contained herein.

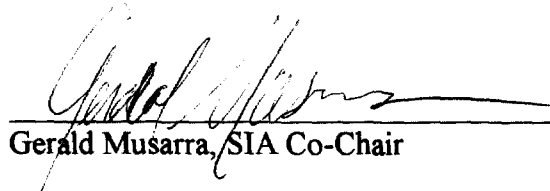
Respectfully submitted,

The Satellite Industry Association

By:



Lon Levin, SIA Co-Chair



Gerald Musarra, SIA Co-Chair



Clayton Mowry, SIA Director

Satellite Industry Association  
225 Reinekers Lane, Suite 600  
Alexandria, VA 22314  
Tel: 703/549-8697

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<sup>6</sup> See Notice of proposed Rulemaking ("NPRM"), FCC 96-426, page 29, section 80 (released October 29, 1996).